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5 UNITED STATES DISTRICT COURT  
6 NORTHERN DISTRICT OF CALIFORNIA

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8 CHRISTINE CHANG, *et al.*, No. C-07-4005 EMC  
9 Plaintiffs,  
10 v.  
11 ROCKRIDGE MANOR CONDOMINIUM, *et* **ORDER DENYING PLAINTIFF'S  
al., MOTIONS FOR RECONSIDERATION  
12 Defendants.  
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16 Previously, this Court issued (1) an order denying Plaintiffs' Christine Chang and Eric Sun's  
17 motion to set aside the judgment and (2) an order denying Plaintiffs' motion for recusal. *See* Docket  
18 No. 209 (order, filed on 8/3/10); Docket No. 213 (order, filed on 8/11/2010). Ms. Chang has now  
19 moved for reconsideration of both orders.<sup>1</sup> Having considered the papers filed and accompanying  
20 submissions, as well as all other evidence of record, the Court hereby **DENIES** the motions to  
21 reconsider.

22 **I. DISCUSSION**

23 Civil Local Rule 7-9 governs motions for reconsideration. Under the rule, "[n]o party may  
24 notice a motion for reconsideration without first obtaining leave of Court to file the motion." Civ.  
25 L.R. 7-9(a). Moreover, a party moving for leave to file a motion for reconsideration must  
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28 <sup>1</sup> Ms. Chang purports to make the motions on both her behalf as well as Mr. Sun, her son.  
However, as the Court has repeatedly noted, Ms. Chang has never been appointed guardian ad litem for  
her son and, even if she had been, she would need representation by counsel which has not been  
obtained.

1 specifically show:

2 (1) That at the time of the motion for leave, a material difference  
3 in fact or law exists from that which was presented to the Court  
4 before entry of the interlocutory order for which  
5 reconsideration is sought. The party also must show that in the  
6 exercise of reasonable diligence the party applying for  
7 reconsideration did not know such fact or law at the time of the  
8 interlocutory order; or  
9 (2) The emergence of new material facts or a change of law  
10 occurring after the time of such order; or  
11 (3) A manifest failure by the Court to consider material facts or  
12 dispositive legal arguments which were presented to the Court  
13 before such interlocutory order.

14 Civ. L.R. 7-9(b).

15 In the instant case, Ms. Chang has failed to meet any of the above standards and therefore the  
16 Court denies her leave to file her motions for reconsideration.

17 Even if the Court were to permit Ms. Chang to file her motions for reconsideration, she  
18 would fare no better on the merits.

19 First, Ms. Chang claims that the undersigned distorted the facts as to when she learned about  
20 his affiliations with the University. According to Ms. Chang, she discovered the affiliations in  
21 September 2009 -- not in September 2008 as stated in the Court's order. But September 2008 was  
22 the date that Ms. Chang cited in her original motion to set aside the judgment. *See* Docket No. 197  
23 (Mot. at 6) (asserting that, “[i]n September 2008, Chang and Sun discovered new evidence”)  
24 (emphasis omitted). Therefore, Ms. Chang's contention that the undersigned has distorted the facts  
25 is without basis. Furthermore, even if Ms. Chang had not discovered the affiliations until September  
26 2009, that does not alter the Court's analysis in its order denying the motion to set aside the  
27 judgment.

28 Second, Ms. Chang argues that *United States ex rel. Hochman v. Nackman*, 145 F.3d 1069,  
29 1076 (9th Cir. 1998), does not support the Court's denial of her motion for recusal because, in that  
30 case, the university with which the judge was affiliated was only tangentially involved in the case  
31 and was not an actual party. Here, the University is a party to the case. Ms. Chang is correct that  
32 the university in *Hochman* was not a named party and that the Ninth Circuit took this fact into  
33 consideration in concluding that there was no need for recusal. *See id.* at 1076 (stating that the

1 judge's "small yearly contribution to the law school's alumni association" was an "insignificant  
 2 contact [that] would not reasonably lead one to question his impartiality, in particular because USC  
 3 is not a named party and because the relationship between this case and USC's law school is  
 4 virtually nonexistent"). However, in the very next breath, the Ninth Circuit spoke in much broader  
 5 terms:

6 We agree with other circuits in holding that § 455(a) does not require  
 7 recusal for similarly minimal alumni contacts. *See, e.g., Lunde v.*  
*Helms*, 29 F.3d 367, 370-71 (8th Cir. 1994) (no abuse of discretion for  
 8 failure to recuse when judge was alumnus of defendant-university's  
 law school, made financial contributions to an alumni organization,  
 and had presented education programs at the university); *Wu v.*  
*Thomas*, 996 F.2d 271, 274-75 & n.7 (11th Cir. 1993) (per curiam) (no  
 9 abuse of discretion for failure to recuse when judge was alumnus of  
 defendant-university, served as unpaid adjunct professor who offered  
 10 internships for the university's law students, gave the university a  
 yearly donation for football tickets, and planned to create scholarship  
 11 at the university); *Easley v. University of Mich. Bd. of Regents*, 906  
 12 F.2d 1143, 1145-46 (6th Cir. 1990) (no abuse of discretion for failure  
 13 to recuse when judge was alumnus of defendant-law school and  
 member of law school alumni social organization).

14 *Id.* As indicated by the authority cited by the Ninth Circuit, minimal alumni contacts are not enough  
 15 to give rise to recusal *even* where the university or school is a party in the case.

16 Third, the Court addresses the affiliations that Ms. Chang maintains the undersigned has with  
 17 the University. According to Ms. Chang, one such affiliation consisted of the undersigned being  
 18 counsel in a case, *People ex rel. Gallo v. Acuna*, 14 Cal. 4th 1090 (1997). The undersigned was an  
 19 attorney in that lawsuit but did not represent the University in the action; indeed, the University was  
 20 not a party to the suit or even tangentially involved. Ms. Chang suggests that the undersigned  
 21 provided this case to University law students for a case study but there is nothing to support this  
 22 assertion.

23 Other affiliations referred to by Ms. Chang consist of giving a speech for the California Law  
 24 Review (later published in the journal), attending a reunion, providing small alumni contributions  
 25 (\$500-999), and attending and making a presentation at an event celebrating the naming of the  
 26 Center for Social Justice in honor of another judge in this District. While Ms. Chang has offered a  
 27 declaration to authenticate the evidence she has submitted to support these affiliations, the evidence  
 28 is largely hearsay and therefore inadmissible. More important, even taking the evidence as

1 inadmissible, the affiliations still are nothing more than minimal alumni contacts under *Hochman*  
2 and the authority cited in *Hochman*.

3 Finally, the Court notes that, in her motion seeking reconsideration of the order denying the  
4 request to set aside the judgment, Ms. Chang argues that the undersigned failed to discuss Federal  
5 Rule of Civil Procedure 60(b)(6). However, Ms. Chang never cited Rule 60(b)(6) as a basis for her  
6 motion to set aside the judgment. *See Docket No. 197 (motion)*. Even if she had, her motion would  
7 have failed because, “[i]f the reasons offered for relief from judgment could be considered under one  
8 of the more specific clauses of Rule 60(b)(1)-(5), those reasons will not justify relief under Rule  
9 60(b)(6).” Moore’s Fed. Prac. -- Civ. § 60.48[2]; *see also Arrieta v. Battaglia*, 461 F.3d 861, 865  
10 (7th Cir. 2006) (noting that, “if the asserted ground for relief falls within one of the enumerated  
11 grounds for relief subject to the one-year time limit of Rule 60(b), relief under the residual provision  
12 of Rule 60(b)(6) is not available”); *Cotto v. United States*, 993 F.2d 274, 278 (1st Cir. 1993) (noting  
13 that “clause (6) is designed as a catchall, and a motion thereunder is only appropriate when none of  
14 the first five subsections pertain”; adding that “plaintiffs’ attempt to garb their motion in the raiment  
15 of clause (6) runs aground on the bedrock principle that clause (6) may not be used as a vehicle for  
16 circumventing clauses (1) through (5)”). Moreover, relief under Rule 60(b)(6) is reserved for cases  
17 in which there are extraordinary circumstances. *See Lal v. State of Cal.*, 610 F.3d 518, 524 (9th Cir.  
18 2010) (stating that Rule 60(b)(6) is used ““sparingly as an equitable remedy to prevent manifest  
19 injustice”” and that to receive relief under the rule, ““a party must demonstrate ““extraordinary  
20 circumstances which prevented or rendered him unable to prosecute [his case]”””). No such showing  
21 was made here.

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## II. CONCLUSION

2 Accordingly, Ms. Chang's motions for leave to file a motion for reconsideration, as well as  
3 her motions to reconsider, are denied.

4 This order disposes of Docket Nos. 218 and 220.

## 6 || IT IS SO ORDERED.

8 | Dated: September 7, 2010

  
EDWARD M. CHEN  
United States Magistrate Judge

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7 CHRISTINE CHANG, *et al.*,

No. C-07-4005 EMC

8 Plaintiffs,

9 v.

10 11 ROCKRIDGE MANOR CONDOMINIUM, *et  
al.*,

12 Defendants.

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14  
15 **CERTIFICATE OF SERVICE**

16 I, the undersigned, hereby certify that I am an employee in the U.S. District Court, Northern  
17 District of California. On the below date, I served a true and correct copy of the attached, by placing  
18 said copy/copies in a postage-paid envelope addressed to the person(s) listed below, by depositing  
19 said envelope in the U.S. Mail; or by placing said copy/copies into an inter-office delivery  
20 receptacle located in the Office of the Clerk.

21 Christine Chang  
341 Tideway Drive #214  
Alameda, CA 94501

22  
23 **ALL OTHER COUNSEL SERVED VIA  
ELECTRONIC FILING**

Dated: September 7, 2010

24 RICHARD W. WIEKING, CLERK

25 By: /s/ Leni Doyle  
26 Leni Doyle  
27 Deputy Clerk

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